

## **EXHIBIT A**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re:	Adv. Pro. No. 08-1789 (SMB)
BERNARD L. MADOFF INVESTMENT SECURITIES LLC,	SIPA LIQUIDATION
Debtor.	(Substantively Consolidated)
IRVING H. PICARD, Trustee for the Liquidation of Bernard L. Madoff Investment Securities LLC,	
Plaintiff,	
v.	
DEFENDANTS LISTED ON APPENDIX A ATTACHED HERETO,	Adv. Pro. Nos. listed on Appendix A Attached Hereto
Defendants.	

**ORDER GRANTING IN PART AND DENYING IN PART  
DEFENDANTS' MOTIONS TO DISMISS**

The Defendants listed on Appendix A attached hereto (collectively, “Defendants”) have filed motions to dismiss (the “Motions to Dismiss”) complaints or amended complaints filed against them by Plaintiff Irving H. Picard, as trustee (“Trustee”) for the substantively consolidated liquidation of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* (“SIPA”) and the substantively consolidated estate of Bernard L. Madoff (the “Complaints”).

On January 17, 2014 and March 10, 2014, the Trustee and the Securities Investor Protection Corporation (“SIPC”) filed separate memoranda of law opposing the Motions to

Dismiss (the “Opposition Briefs”). On or before March 17, 2014, certain Defendants filed reply briefs in further support of their respective Motions to Dismiss (the “Reply Briefs”).

On September 17, 2014, a hearing on the Motions to Dismiss was held by the Honorable Stuart M. Bernstein (the “Hearing”). Before and after the Hearing, various parties submitted supplemental authorities and other submissions to the Court. The Court, having reviewed the Motions to Dismiss, the Opposition Briefs, the Reply Briefs, the supplemental authorities and other submissions, and having heard the argument of counsel at the Hearing, granted in part and denied in part the Motions to Dismiss for reasons set forth in its Memorandum Decision Regarding Omnibus Motions to Dismiss (the “Decision”) entered June 2, 2015.

On June 22, 2015, the Supreme Court of the United States denied certiorari of the Trustee’s appeal of *SIPC v. Ida Fishman Revocable Trust*, 14-1128 and *Picard v. Ida Fishman Revocable Trust*, 14-1129 (the “Supreme Court Decision”), and thus section 546(e) of the Bankruptcy Code applies to those adversary proceedings identified on Appendix A attached hereto (the “Adversary Proceedings”).

Accordingly, it is hereby **ORDERED** that:

1. Pursuant to the Decision and the Supreme Court Decision, counts in each Complaint included on Appendix A, other than those seeking to avoid and recover initial transfers pursuant to sections 548(a)(1)(A), 550, and 551 of the Bankruptcy Code, are hereby dismissed.

2. As to counts in each Complaint included on Appendix A in which the Trustee sought to avoid obligations pursuant to sections 548(a)(1) and 544 of the Bankruptcy Code, applicable provisions of SIPA including sections 78fff(b) and 78fff-1(b) and New York Debtor

and Creditor Law (the “Obligations Counts”), the Motions to Dismiss are granted with respect to the Obligations Counts and such counts are hereby dismissed.

3. As to the count in each Complaint included on Appendix A seeking to recover subsequent transfers from subsequent transferee defendants pursuant to section 550(a) of the Bankruptcy Code, applicable provisions of SIPA including section 78fff-2(c)(3) and New York Debtor and Creditor Law (the “Subsequent Transferee Count”), the Motions to Dismiss are granted with respect to the Subsequent Transferee Count and such count is hereby dismissed from each Complaint without prejudice to (i) the Trustee’s right to seek to amend in accordance with Rule 15(a)(2) of the Federal Rules of Civil Procedure, made applicable hereto by Federal Rule of Bankruptcy Procedure 7015, and/or (ii) the Trustee’s rights under Section 550(f) of the Bankruptcy Code.

4. In all other respects, the Motions to Dismiss are denied.

5. Defendants shall file their answers to the Complaints on or before September 18, 2015. The Adversary Proceedings will move forward thereafter on schedules to be established by further order of the Court after consultation among the parties in accordance with the applicable rules of procedure.

6. This Court retains jurisdiction to hear and determine all matters arising from or related to this Order.

Dated: New York, New York  
\_\_\_\_\_, 2015

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HONORABLE STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE

<b>APPENDIX A</b>			
	<b>Adv. Pro. No.</b>	<b>Defendant(s)</b>	<b>Counsel for Defendant(s)</b>
1.	10-05255	Picard v. Stefanelli Investors Group, et al.	Delbello Donnellan Weingarten Wise & Wiederkehr, LLP
2.	10-04401	Picard v. Rose Gindel Trust, et al.	Dentons LLP
3.	10-04925	Picard v. Alvin Gindel Rev. Trust, et al.	Dentons LLP
4.	10-05085	Picard v. Eugene J. Ribakoff 2006 Trust, et al.	Dentons LLP
5.	10-05224	Picard v. David R. Markin, et al.	Dentons LLP
6.	10-05384	Picard v. Neil Reger Profit Sharing Keogh, et al.	Dentons LLP
7.	10-05424	Picard v. The Frederica Ripley French Rev. Trust, et al.	Dentons LLP
8.	10-04335	Picard v. Aspen Fine Arts Co., et al.	Milberg LLP
9.	10-04741	Picard v. William M. Woessner Family Trust, et al.	Milberg LLP
10.	10-04906	Picard v. Steven V Marcus Separate Property of the Marcus Family Trust, et al.	Milberg LLP
11.	10-04966	Picard v. Onesco International, Ltd., et al	Lax & Neville LLP/ Milberg LLP
12.	10-04978	Picard v. Estate of Ira S. Rosenberg, et al	Milberg LLP
13.	10-04341	Picard v. James P. Marden, et al.	Pryor Cashman LLP
14.	10-04348	Picard v. Marden Family Limited Partnership, et al.	Pryor Cashman LLP
15.	10-04575	Picard v. Boslow Family Limited Partnership, et al.	Pryor Cashman LLP
16.	10-04944	Picard v. Pergament Equities LLC, et al.	Pryor Cashman LLP
17.	10-05118	Picard v. Charlotte M. Marden, et al.	Pryor Cashman LLP
18.	10-05194	Picard v. Bruce D. Pergament, et al.	Pryor Cashman LLP
19.	10-05439	Picard v. Avram J. Goldberg, et al.	Pryor Cashman LLP

20.	10-04352	Picard v. RAR Entrepreneurial Fund LTD, et al.	Becker & Poliakoff LLP
21.	10-04362	Picard v. Sage Associates, et al.	Becker & Poliakoff LLP
22.	10-04400	Picard v. Sage Realty, et al.	Becker & Poliakoff LLP
23.	10-04712	Picard v. Joseph S. Popkin Revocable Trust Dated February 9, 2006, a Florida Tr	Becker & Poliakoff LLP
24.	10-04718	Picard v. The Jordan H. Kart Revocable Trust, et al.	Becker & Poliakoff LLP
25.	10-05157	Picard v. The Harnick Brothers Partnership, et al.	Becker & Poliakoff LLP
26.	10-05196	Picard v. Whitman 1990 Trust U/A DTD 4/13/90, etc., et al	Becker & Poliakoff LLP

**REDLINE VERSION**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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Debtor.	(Substantively Consolidated)
IRVING H. PICARD, Trustee for the Liquidation of Bernard L. Madoff Investment Securities LLC,	
Plaintiff,	
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DEFENDANTS LISTED ON APPENDIX A ATTACHED HERETO,	Adv. Pro. Nos. listed on Appendix A Attached Hereto
Defendants.	

**ORDER GRANTING IN PART AND DENYING IN PART  
DEFENDANTS' ~~MOTION~~MOTIONS TO DISMISS**

The Defendants listed on Appendix A attached hereto (collectively, “Defendants”) have filed motions to dismiss (the “Motions to Dismiss”) complaints or amended complaints filed against them by Plaintiff Irving H. Picard, as trustee (“Trustee”) for the substantively consolidated liquidation of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* (“SIPA”) and the substantively consolidated estate of Bernard L. Madoff (the “Complaints”).

On January 17, 2014 and March 10, 2014, the Trustee and the Securities Investor Protection Corporation (“SIPC”) filed separate memoranda of law opposing the Motions to



Dismiss (the “Opposition Briefs”). On or before March 17, 2014, certain Defendants filed reply briefs in further support of their respective Motions to Dismiss (the “Reply Briefs”).

On September 17, 2014, a hearing on the Motions to Dismiss was held by the Honorable Stuart M. Bernstein (the “Hearing”). Before and after the Hearing, various parties submitted supplemental authorities and other submissions to the Court. The Court, having reviewed the Motions to Dismiss, the Opposition Briefs, the Reply Briefs, the supplemental authorities and other submissions, and having heard the argument of counsel at the Hearing, granted in part and denied in part the Motions to Dismiss for reasons set forth in its Memorandum Decision Regarding Omnibus Motions to Dismiss (the “Decision”) entered June 2, 2015.

On June 22, 2015, the Supreme Court of the United States denied certiorari of the Trustee’s appeal of *SIPC v. Ida Fishman Revocable Trust*, 14-1128 and *Picard v. Ida Fishman Revocable Trust*, 14-1129 (the “Supreme Court Decision”), and thus section 546(e) of the Bankruptcy Code applies to those adversary proceedings identified on Appendix A attached hereto (the “Adversary Proceedings”).

Accordingly, it is hereby **ORDERED** that:

1. Pursuant to the Decision and the Supreme Court Decision, counts in each Complaint included on Appendix A, other than those seeking to avoid and recover initial transfers pursuant to sections 548(a)(1)(A), 550, and 551 of the Bankruptcy Code, are hereby dismissed.

1.2. As to counts in each Complaint included on Appendix A ~~attached hereto~~ in which the Trustee sought to avoid obligations pursuant to sections 548(a)(1) and 544 of the Bankruptcy Code, applicable provisions of SIPA including sections 78fff(b) and 78fff-1(b) and New York

Debtor and Creditor Law (the “Obligations Counts”), the Motions to Dismiss are granted with respect to the Obligations Counts and such counts are hereby dismissed ~~from each Complaint.~~

~~2.3.~~ As to the count in each ~~complaint~~ Complaint included on Appendix A ~~attached hereto~~ seeking to recover subsequent transfers from subsequent transferee defendants pursuant to section 550(a) of the Bankruptcy Code, applicable provisions of SIPA including section 78fff-2(c)(3) and New York Debtor and Creditor Law (the “Subsequent Transferee Count”), the ~~Trustee shall determine on or before August 17, 2015 (the “Consideration Period”) whether (i) the Trustee intends to amend the subsequent transferee allegations in a Complaint, or (ii) the Subsequent Transferee Count will be dismissed without prejudice~~ Motions to Dismiss are granted with respect to the Subsequent Transferee Count and such count is hereby dismissed from each Complaint without prejudice to (i) the Trustee’s right to seek to amend in accordance with Rule 15(a)(2) of the Federal Rules of Civil Procedure, made applicable hereto by Federal Rule of Bankruptcy Procedure 7015, and/or (ii) the Trustee’s rights under Section 550(f) of the Bankruptcy Code.

~~3. — Should the Trustee seek to amend the Subsequent Transferee Count, he will seek Defendants’ written consent to an amendment of the subsequent transferee allegations in a manner consistent with the Decision, which written consent will not be unreasonably withheld. If necessary, the Trustee will seek leave of the Court to amend in accordance with Rule 15(a)(2) of the Federal Rules of Civil Procedure. Should no request for consent to the amendment of a Complaint be provided to the relevant Defendant prior to the expiration of the Consideration Period, the Subsequent Transferee Count in that Complaint will be deemed dismissed without prejudice.~~

4. In all other respects, the Motions to Dismiss are denied.

5. ~~All Defendants that are parties to Complaints for which Subsequent Transferee Counts have been deemed dismissed at the conclusion of the Consideration Period~~ shall file their answers to the Complaints ~~within 30 days following the expiration of the Consideration Period, on~~ or before September ~~16~~18, 2015. ~~Defendants~~The Adversary Proceedings will move forward thereafter on schedules to be established by further order of the Court after consultation among the parties in accordance with the applicable rules of procedure.

6. ~~—— All actions in which Trustee seeks leave to amend the Complaint will move forward thereafter on a schedule consistent with the applicable Rules of Civil Procedure, including, without limitation, Rule 15(a)(3).~~

~~7.~~6. This Court retains jurisdiction to hear and determine all matters arising from or related to this Order.

Dated: New York, New York

\_\_\_\_\_  
HONORABLE STUART M. BERNSTEIN

\_\_\_\_\_, 2015  
UNITED STATES BANKRUPTCY JUDGE

APPENDIX A			
	Adv. Pro. No.	Defendant(s)	Counsel for Defendant(s)
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<del>2.</del>	<del>10-04861</del>	<del>Picard v. Harold J. Hein</del>	<del>Dentons LLP</del>
<del>3.</del>	10-04401	Picard v. Rose Gindel Trust, et al.	Dentons LLP
<del>3.</del>	<u>10-04925</u>	<u>Picard v. Alvin Gindel Rev. Trust, et al.</u>	<u>Dentons LLP</u>
4.	10-05085	Picard v. Eugene J. Ribakoff 2006 Trust, et al.	Dentons LLP
<del>5.</del>	<del>10-05424</del>	<del>Picard v. The Frederica Ripley French Rev. Trust, et al.</del>	<del>Dentons LLP</del>
<del>6.</del>	10-05224	Picard v. David R. Markin, et al.	Dentons LLP
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<del>9.</del>	<del>10-04966</del> <u>10-05424</u>	<del>Picard v. Onesco International, Ltd., The Frederica Ripley French Rev. Trust, et al.</del>	<del>Lax &amp; Neville LLP/</del> <u>MilbergDentons LLP</u>
<del>10.</del>	10-04335	Picard v. Aspen Fine Arts Co., et al.	Milberg LLP
<del>11.</del>	<del>10-04978</del>	<del>Picard v. Estate of Ira S. Rosenberg, et al.</del>	<del>Milberg LLP</del>
<del>12.</del>	10-04741	Picard v. William M. Woessner Family Trust, et al.	Milberg LLP
<del>13.</del>	<del>10-04944</del> <u>10-04906</u>	<del>Picard v. Pergament Equities LLC</del> <u>Steven V Marcus Separate Property of the Marcus Family Trust, et al.</u>	<del>Pryor Cashman</del> <u>Milberg LLP</u>
<del>14.</del>	<del>10-05194</del> <u>10-04966</u>	<del>Picard v. Bruce D. Pergament, Onesco International, Ltd., et al.</del>	<del>Pryor Cashman</del> <u>Lax &amp; Neville LLP/</u> <u>Milberg LLP</u>
<u>12.</u>	<u>10-04978</u>	<u>Picard v. Estate of Ira S. Rosenberg, et al.</u>	<u>Milberg LLP</u>
<del>15.</del>	10-04341	Picard v. James P. Marden, et al.	Pryor Cashman LLP

<del>16.14.</del>	10-04348	Picard v. Marden Family Limited Partnership, et al.	Pryor Cashman LLP
<del>17.</del>	<del>10-05439</del>	<del>Picard v. Avram J. Goldberg, et al.</del>	<del>Pryor Cashman LLP</del>
<del>18.1.</del>	<del>10-05118</del>	<del>Picard v. Charlotte M. Marden, et al.</del>	<del>Pryor Cashman LLP</del>
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<del>24.25.</del>	10-05157	Picard v. The Harnick Brothers Partnership, et al.	Becker & Poliakoff LLP
<del>25.26.</del>	10-05196	Picard v. Whitman 1990 Trust U/A DTD 4/13/90, etc., et al	Becker & Poliakoff LLP
<del>26.</del>	<del>12-01706</del>	<del>Picard v. Estate of Nathan Schupak</del>	<del>Becker &amp; Poliakoff LLP</del>



**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re:	
BERNARD L. MADOFF INVESTMENT SECURITIES LLC,	Adv. Pro. No. 08-1789 (SMB)
Debtor.	SIPA LIQUIDATION  (Substantively Consolidated)
IRVING H. PICARD, Trustee for the Liquidation of Bernard L. Madoff Investment Securities LLC,	
Plaintiff,	
v.	
DEFENDANTS LISTED ON APPENDIX A ATTACHED HERETO,	Adv. Pro. Nos. listed on Appendix A Attached Hereto
Defendants.	

**ORDER GRANTING IN PART AND DENYING IN PART  
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Dismiss (the “Opposition Briefs”). On or before March 17, 2014, certain Defendants filed reply briefs in further support of their respective Motions to Dismiss (the “Reply Briefs”).

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Accordingly, it is hereby **ORDERED** that:

1. Pursuant to the Decision and the Supreme Court Decision, counts in each Complaint included on Appendix A, other than those seeking to avoid and recover initial transfers, and subsequent transfers to the extent asserted, pursuant to sections 548(a)(1)(A), 550, and 551 of the Bankruptcy Code, are hereby dismissed.

2. As to counts in each Complaint included on Appendix A in which the Trustee sought to avoid obligations pursuant to sections 548(a)(1) and 544 of the Bankruptcy Code, applicable provisions of SIPA including sections 78fff(b) and 78fff-1(b) and New York Debtor



and Creditor Law (the “Obligations Counts”), the Motions to Dismiss are granted with respect to the Obligations Counts and such counts are hereby dismissed.

3. In all other respects, the Motions to Dismiss are denied.

4. Defendants shall file their answers to the Complaints within 30 days of the entry of this Order. The Adversary Proceedings will move forward thereafter on schedules to be established by further order of the Court after consultation among the parties in accordance with the applicable rules of procedure.

5. This Court retains jurisdiction to hear and determine all matters arising from or related to this Order.

Dated: New York, New York  
\_\_\_\_\_, 2015

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HONORABLE STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE

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1.	10-04724	Picard v. P. Charles Gabriele	Milberg LLP
2.	10-04725	Picard v. Ruth E. Goldstein	Milberg LLP
3.	10-04582	Picard v. Gerald Blumenthal	Milberg LLP
4.	10-04921	Picard v. Stanley T. Miller	Dentons LLP
5.	10-04946	Picard v. Stephen R. Goldenberg	Milberg LLP
6.	10-04951	Picard v. Harold A. Thau	Milberg LLP
7.	10-05069	Picard v. Potamkin Family Foundation	Milberg LLP
8.	10-04576	Picard v. Norton A. Eisenberg	Milberg LLP
9.	10-05089	Picard v. John Denver Concerts, Inc., et al.	Milberg LLP
10.	10-05136	Picard v. Richard Roth	Milberg LLP
11.	10-05401	Picard v. Estate of Eleanor Myers a/k/a Eleanor Block a/k/a Lee Block, et al.	Milberg LLP
12.	10-04672	Picard v. Sidney Cole	Dentons LLP
13.	10-04415	Picard v. Barbara J. Berdon	Dentons LLP
14.	10-05209	Picard v. Lapin Children LLC	Dentons LLP
15.	10-04332	Picard v. Barry Weisfeld	Dentons LLP
16.	10-04861	Picard v. Harold J. Hein	Dentons LLP
17.	10-04540	Picard v. Jonathan Sobin	Seeger Weiss LLP
18.	10-04565	Picard v. Murray & Irene Pergament Foundation, Inc., et al.	Pryor Cashman LLP
19.	10-05239	Picard v. Robert Fried, et al.	Pryor Cashman LLP
20.	10-05397	Picard v. Bernard A. & Chris Marden Foundation Inc., et al.	Pryor Cashman LLP

21.	10-04592	Picard vs. Anthony E. Stefanelli	Delbello Donnellan Weingarten Wise & Wiederkehr, LLP
22.	10-04865	Picard v. Edward H. Kaplan, et al.	Arent Fox LLP
23.	10-04976	Picard v. Eleven Eighteen Limited Partnership, et al.	Arent Fox LLP
24.	10-04998	Picard v. Estate of Hermen Greenberg, et al.	Arent Fox LLP
25.	10-05027	Picard v. 1776 K Street Associates Limited Partnership, et al.	Arent Fox LLP

**REDLINE VERSION**

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Debtor and Creditor Law (the “Obligations Counts”), the Motions to Dismiss are granted with respect to the Obligations Counts and such counts are hereby dismissed ~~from each Complaint.~~

~~2.3.~~ In all other respects, the Motions to Dismiss are denied.

~~3.~~ Defendants shall file their answers to the Complaints ~~on or before July 31, 2015.~~

4. ~~Defendants~~ within 30 days of the entry of this Order. The Adversary Proceedings will move forward thereafter on schedules to be established by further order of the Court after consultation among the parties: in accordance with the applicable rules of procedure.

5. This Court retains jurisdiction to hear and determine all matters arising from or related to this Order.

Dated: New York, New York

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\_\_\_\_\_, 2015

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HONORABLE STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE

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<u>9.</u>	<u>10-05089</u>	<u>Picard v. John Denver Concerts, Inc., et al.</u>	<u>Milberg LLP</u>
<u>10.</u>	<u>10-05136</u>	<u>Picard v. Richard Roth</u>	<u>Milberg LLP</u>
<del>11.</del>	10-05401	Picard v. Estate of Eleanor Myers a/k/a Eleanor Block a/k/a Lee Block, et al.	Milberg LLP
<del>2.</del>	<del>10-04921</del>	<del>Picard v. Stanley T. Miller</del>	<del>Dentons LLP</del>
<del>3.</del> <u>12.</u>	10-04672	Picard v. Sidney Cole	Dentons LLP
<del>4.</del> <u>13.</u>	10-04415	Picard v. Barbara J. Berdon	Dentons LLP
<del>5.</del> <u>14.</u>	10-05209	Picard v. Lapin Children LLC	Dentons LLP
<del>6.</del> <u>15.</u>	10-04332	Picard v. Barry Weisfeld	Dentons LLP
<del>7.</del> <u>16.</u>	10- <del>04951</del> <u>104861</u>	Picard v. Harold <del>A. Thau</del> <u>J. Hein</u>	<del>Milberg</del> <u>Dentons</u> LLP
<del>8.</del>	<del>10-04946</del>	<del>Picard v. Stephen R. Goldenberg</del>	<del>Milberg LLP</del>
<del>9.</del>	<del>10-05089</del>	<del>Picard v. John Denver Concerts, Inc., et al.</del>	<del>Milberg LLP</del>
<del>10.</del>	<del>10-04725</del>	<del>Picard v. Ruth E. Goldstein</del>	<del>Milberg LLP</del>



<del>11.</del>	<del>10-05069</del>	<del>Picard v. Potamkin Family Foundation</del>	<del>Milberg LLP</del>
<del>12.</del>	<del>10-04576</del>	<del>Picard v. Norton A. Eisenberg</del>	<del>Milberg LLP</del>
<del>13.</del>	<del>10-04724</del>	<del>Picard v. P. Charles Gabriele</del>	<del>Milberg LLP</del>
<del>14.</del>	<del>10-04582</del>	<del>Picard v. Gerald Blumenthal</del>	<del>Milberg LLP</del>
<del>15.</del>	<del>10-05136</del>	<del>Picard v. Richard Roth</del>	<del>Milberg LLP</del>
<del>16.</del>	<del>10-04906</del>	<del>Picard v. Steven V Marcus Separate Property of the Marcus Family Trust, et al.</del>	<del>Milberg LLP</del>
17.	10-04540	Picard v. Jonathan Sobin	Seeger Weiss LLP
<del>18.</del>	<del>10-05239</del>	<del>Picard v. Robert Fried, et al.</del>	<del>Pryor Cashman LLP</del>
<del>19.</del>	<del>10-05397</del>	<del>Picard v. Oakdale Foundation Inc., et al.</del>	<del>Pryor Cashman LLP</del>
<del>20.</del> 18.	10-04565	Picard v. Murray & Irene Pergament Foundation, Inc., et al.	Pryor Cashman LLP
<u>19.</u>	<u>10-05239</u>	<u>Picard v. Robert Fried, et al.</u>	<u>Pryor Cashman LLP</u>
<u>20.</u>	<u>10-05397</u>	<u>Picard v. Bernard A. &amp; Chris Marden Foundation Inc., et al.</u>	<u>Pryor Cashman LLP</u>
<u>21.</u>	<u>10-04592</u>	<u>Picard vs. Anthony E. Stefanelli</u>	<u>Delbello Donnellan Weingarten Wise &amp; Wiederkehr, LLP</u>
<u>22.</u>	<u>10-04865</u>	<u>Picard v. Edward H. Kaplan, et al.</u>	<u>Arent Fox LLP</u>
<u>23.</u>	<u>10-04976</u>	<u>Picard v. Eleven Eighteen Limited Partnership, et al.</u>	<u>Arent Fox LLP</u>
<del>21.</del> 24.	10-04998	Picard v. Estate of Hermen Greenberg, et al.	Arent Fox LLP
<del>22.</del> 25.	10-05027	Picard v. 1776 K Street Associates Limited Partnership, et al.	Arent Fox LLP
<del>23.</del>	<del>10-04976</del>	<del>Picard v. Eleven Eighteen Limited Partnership, et al.</del>	<del>Arent Fox LLP</del>
<del>24.1.</del>	<del>10-04865</del>	<del>Picard v. Edward H. Kaplan, et al.</del>	<del>Arent Fox LLP</del>
<del>25.1.</del>	<del>10-04592</del>	<del>Picard vs. Anthony E. Stefanelli</del>	<del>Delbello Donnellan Weingarten Wise &amp; Wiederkehr, LLP</del>



**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re:	
BERNARD L. MADOFF INVESTMENT SECURITIES LLC,	Adv. Pro. No. 08-1789 (SMB)
Debtor.	SIPA LIQUIDATION  (Substantively Consolidated)
IRVING H. PICARD, Trustee for the Liquidation of Bernard L. Madoff Investment Securities LLC,	
Plaintiff,	
v.	
DEFENDANTS LISTED ON APPENDIX A ATTACHED HERETO,	Adv. Pro. Nos. listed on Appendix A Attached Hereto
Defendants.	

**ORDER GRANTING IN PART AND DENYING IN PART  
DEFENDANTS' MOTIONS TO DISMISS**

The Defendants listed on Appendix A attached hereto (collectively, “Defendants”) have filed motions to dismiss (the “Motions to Dismiss”) complaints or amended complaints filed against them by Plaintiff Irving H. Picard, as trustee (“Trustee”) for the substantively consolidated liquidation of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* (“SIPA”) and the substantively consolidated estate of Bernard L. Madoff (the “Complaints”).

On January 17, 2014 and March 10, 2014, the Trustee and the Securities Investor Protection Corporation (“SIPC”) filed separate memoranda of law opposing the Motions to

Dismiss (the “Opposition Briefs”). On or before March 17, 2014, certain Defendants filed reply briefs in further support of their respective Motions to Dismiss (the “Reply Briefs”).

On September 17, 2014, a hearing on the Motions to Dismiss was held by the Honorable Stuart M. Bernstein (the “Hearing”). Before and after the Hearing, various parties submitted supplemental authorities and other submissions to the Court. The Court, having reviewed the Motions to Dismiss, the Opposition Briefs, the Reply Briefs, the supplemental authorities and other submissions, and having heard the argument of counsel at the Hearing, granted in part and denied in part the Motions to Dismiss for reasons set forth in its Memorandum Decision Regarding Omnibus Motions to Dismiss (the “Decision”) entered June 2, 2015.

On June 22, 2015, the Supreme Court of the United States denied certiorari of the Trustee’s appeal of *SIPC v. Ida Fishman Revocable Trust*, 14-1128 and *Picard v. Ida Fishman Revocable Trust*, 14-1129 (the “Supreme Court Decision”), and thus section 546(e) of the Bankruptcy Code applies to those adversary proceedings identified on Appendix A attached hereto (the “Adversary Proceedings”).

Accordingly, it is hereby **ORDERED** that:

1. Pursuant to the Decision and the Supreme Court Decision, counts in each Complaint included on Appendix A, other than those seeking to avoid and recover initial and subsequent transfers pursuant to sections 548(a)(1)(A), 550, and 551 of the Bankruptcy Code, are hereby dismissed.
2. In all other respects, the Motions to Dismiss are denied.
3. Defendants shall file their answers to the Complaints within 30 days of the entry of this Order. The Adversary Proceedings will move forward thereafter on schedules to be

established by further order of the Court after consultation among the parties in accordance with the applicable rules of procedure.

4. This Court retains jurisdiction to hear and determine all matters arising from or related to this Order.

Dated: New York, New York  
\_\_\_\_\_, 2015

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HONORABLE STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE

<b>APPENDIX A</b>			
	<b>Adv. Pro. No.</b>	<b>Defendant(s)</b>	<b>Counsel for Defendant(s)</b>
1.	10-04623	Picard v. Edmond A. Gorek	Day Pitney LLP
2.	10-04797	Picard v. Edmond A. Gorek, et al	Day Pitney LLP
3.	10-04349	Picard v. Pauline B. Feldman	Bernfeld, DeMatteo & Bernfeld, LLP
4.	10-04396	Picard v. Edith A. Schur	Bernfeld, DeMatteo & Bernfeld, LLP
5.	10-04408	Picard v. Cheryl Yankowitz, et al.	Bernfeld, DeMatteo & Bernfeld, LLP
6.	10-04560	Picard v. Richard E. Feldman	Bernfeld, DeMatteo & Bernfeld, LLP
7.	10-04717	Picard v. William Diamond	Bernfeld, DeMatteo & Bernfeld, LLP
8.	10-04772	Picard v. M. Elliot Schnall	Law Offices of Herbert Biegel
9.	10-04827	Picard v. Madeline Gins Arakawa, et al.	Carter Ledyard & Millburn LLP
10.	10-04289	Picard v. John Fujiwara, et al	Lax & Neville LLP
11.	10-04301	Picard v. Frieda Bloom	Lax & Neville LLP
12.	10-04304	Picard v. Elinor Solomon	Lax & Neville LLP
13.	10-04307	Picard v. Howard Solomon	Lax & Neville LLP
14.	10-04467	Picard v. David S. Wallenstein	Lax & Neville LLP
15.	10-04481	Picard v. Armand Lindenbaum	Lax & Neville LLP
16.	10-04756	Picard v. Stephen B. Kaye, et al.	Lax & Neville LLP
17.	10-04881	Picard v. Jillian Wernick Livingston	Lax & Neville LLP
18.	10-04900	Picard v. Bonnie J. Kansler	Lax & Neville LLP

19.	10-04954	Picard v. Ruth Kahn	Lax & Neville LLP
20.	10-04988	Picard v. Wallenstein / NY Partnership, et al.	Lax & Neville LLP
21.	10-05036	Picard v. Elinor Friedman Felcher	Lax & Neville LLP
22.	10-05169	Picard v. Fairfield Pagma Associates, LP, et al.	Lax & Neville LLP
23.	10-05246	Picard v. Frances J. Le Vine Rev. Trust, et al.	Lax & Neville LLP
24.	10-04363	Picard v. Schiff Family Holdings Nevada Limited Partnership, et al.	Wachtel Missry LLP
25.	10-04470	Picard v. Silna Family Inter Vivos Trust, et al.	Wachtel Missry LLP
26.	10-04472	Picard v. Daniel N. Silna, et al.	Wachtel Missry LLP
27.	10-04447	Picard v. Franklin Sands	Wachtel Missry LLP
28.	10-04502	Picard v. Steven Schiff	Wachtel Missry LLP
29.	10-04579	Picard v. Shetland Fund Limited Partnership, et al.	Wachtel Missry LLP
30.	10-04726	Picard v. Lori Chemla, et al.	Wachtel Missry LLP
31.	10-04896	Picard v. Helene Juliette Feffer	Wachtel Missry LLP
32.	10-05372	Picard v. O.D.D. Investment LP, et al.	Wachtel Missry LLP
33.	10-05400	Picard v. Ted Goldberg, et al.	Wachtel Missry LLP
34.	10-04796	Picard v. Howard Kaye	McCloughlin & Stern LLP
35.	10-04357	Picard v. James Greiff	Dentons LLP
36.	10-05058	Picard v. America Israel Cultural Foundation	Dentons LLP
37.	10-04799	Picard v. Marvin L. Olshan	Olshan Frome Wolosky LLP
38.	10-04774	Picard v. Diane Wilson	Simon & Partners LLP
39.	10-04551	Picard v. Douglas D. Johnson	Herrick, Feinstein LLP
40.	10-04294	Picard v. David T. Washburn	Becker, Glynn, Muffly, Chassin & Hosinski LLP
41.	10-04435	Picard v. Prospect Capital Partners, et al.	Becker, Glynn, Muffly, Chassin & Hosinski LLP

42.	10-04495	Picard v. Carl Glick	Becker, Glynn, Muffly, Chassin & Hosinski LLP
43.	10-04538	Picard v. James B. Pinto Rev. Trust, et al	Marvin Ingber / McClay Alton, P.L.L.P
44.	10-04588	Picard v. Amy Pinto Lome Rev. Trust, et al	Marvin Ingber / McClay Alton, P.L.L.P
45.	10-04744	Picard v. Irving J. Pinto 1996 Grantor Retained Annuity Trust, et al.	Marvin Ingber / McClay Alton, P.L.L.P
46.	10-05087	Picard vs. Steven J. Lifton	Meyer, Suozzi, English & Klein, P.C.
47.	10-04293	Picard v. Marvin M. Weiner	Fox Rothschild LLP
48.	10-04509	Picard v. Susan Helfman	Klestadt Winters Jureller Southard & Stevens, LLP
49.	10-04292	Picard v. Robert Roman	Becker & Poliakoff LLP
50.	10-04302	Picard v. Joan Roman	Becker & Poliakoff LLP
51.	10-04305	Picard v. David Shapiro, et al.	Becker & Poliakoff LLP
52.	10-04306	Picard v. Angela Tilentnick	Becker & Poliakoff LLP
53.	10-04314	Picard v. David Shapiro Nominee #3	Becker & Poliakoff LLP
54.	10-04321	Picard v. Herbert Barbanel, et al.	Becker & Poliakoff LLP
55.	10-04324	Picard v. Barbara Roth, et al.	Becker & Poliakoff LLP
56.	10-04325	Picard v. David Shapiro Nominee #2	Becker & Poliakoff LLP
57.	10-04328	Picard v. David Shapiro Nominee	Becker & Poliakoff LLP
58.	10-04344	Picard v. Alexander Sirotkin	Becker & Poliakoff LLP
59.	10-04367	Picard v. Benjamin T. Heller	Becker & Poliakoff LLP
60.	10-04380	Picard v. Robert Yaffe, et al.	Becker & Poliakoff LLP
61.	10-04381	Picard v. David Abel	Becker & Poliakoff LLP
62.	10-04412	Picard v. Judith Rechler	Becker & Poliakoff LLP



63.	10-04425	Picard v. Manuel O. Jaffe	Becker & Poliakoff LLP
64.	10-04428	Picard v. Allen Meisels	Becker & Poliakoff LLP
65.	10-04469	Picard v. Carol L. Kamenstein, individually and in her capacity as joint tenant	Becker & Poliakoff LLP
66.	10-04489	Picard v. Marlene Krauss	Becker & Poliakoff LLP
67.	10-04491	Picard v. Elaine Dine Living Trust dated 5/12/, et al.	Becker & Poliakoff LLP
68.	10-04503	Picard v. Judd Robbins	Becker & Poliakoff LLP
69.	10-04541	Picard v. Kenneth W Perlman, et al.	Becker & Poliakoff LLP
70.	10-04562	Picard v. Robert F. Ferber	Becker & Poliakoff LLP
71.	10-04599	Picard v. Alvin E. Shulman	Becker & Poliakoff LLP
72.	10-04614	Picard v. Robert S. Whitman	Becker & Poliakoff LLP
73.	10-04621	Picard v. Donald A. Benjamin	Becker & Poliakoff LLP
74.	10-04633	Picard v. Richard S. Poland	Becker & Poliakoff LLP
75.	10-04644	Picard v. Russell L. Dusek	Becker & Poliakoff LLP
76.	10-04648	Picard v. Peter D. Kamenstein	Becker & Poliakoff LLP
77.	10-04660	Picard v. P.B. Robco Inc.	Becker & Poliakoff LLP
78.	10-04667	Picard v. David Gross, et al.	Becker & Poliakoff LLP
79.	10-04709	Picard v. Andrew M. Goodman	Becker & Poliakoff LLP
80.	10-04728	Picard v. Bruno L. Digiulian	Becker & Poliakoff LLP
81.	10-04753	Picard v. Carla Ginsburg	Becker & Poliakoff LLP
82.	10-04740	Picard v. Robert Hirsch, as an individual, and as joint tenant, et al.	Becker & Poliakoff LLP
83.	10-04748	Picard v. Murray Horowitz, et al.	Becker & Poliakoff LLP
84.	10-04749	Picard v. Philip F. Palmedo	Becker & Poliakoff LLP

85.	10-04762	Picard v. James M. Goodman	Becker & Poliakoff LLP
86.	10-04768	Picard v. Placon2, William R. Cohen, et al.	Becker & Poliakoff LLP
87.	10-04806	Picard v. Kenneth M.Kohl, as an individual and as a joint tenant, et al.	Becker & Poliakoff LLP
88.	10-04809	Picard v. Allen Gordon	Becker & Poliakoff LLP
89.	10-04818	Picard v. Toby Harwood	Becker & Poliakoff LLP
90.	10-04826	Picard v. Boyer Palmer	Becker & Poliakoff LLP
91.	10-04889	Picard v. Robert S. Savin	Becker & Poliakoff LLP
92.	10-04905	Picard v. Train Klan, a Partnership, et al.	Becker & Poliakoff LLP
93.	10-04914	Picard v. Allen Gordon	Becker & Poliakoff LLP
94.	10-04916	Picard v. Susan Andelman	Becker & Poliakoff LLP
95.	10-04956	Picard v. D. M. Castelli	Becker & Poliakoff LLP
96.	10-05037	Picard v. Barbara L. Savin	Becker & Poliakoff LLP
97.	10-05079	Picard v. Estate of James M. Goodman, et al.	Becker & Poliakoff LLP
98.	10-05105	Picard v. Robert C. Luker Family Partnership, et al.	Becker & Poliakoff LLP
99.	10-05190	Picard v. The Lazarus-Schy Family Partnership, etc., et al	Becker & Poliakoff LLP
100.	10-05377	Picard v. Richard G. Eaton	Becker & Poliakoff LLP
101.	10-05420	Picard v. Gunther K. Unflat, et al.	Becker & Poliakoff LLP

**REDLINE VERSION**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re:	Adv. Pro. No. 08-1789 (SMB)
BERNARD L. MADOFF INVESTMENT SECURITIES LLC,	SIPA LIQUIDATION
Debtor.	(Substantively Consolidated)
IRVING H. PICARD, Trustee for the Liquidation of Bernard L. Madoff Investment Securities LLC,	
Plaintiff,	
v.	
DEFENDANTS LISTED ON APPENDIX A ATTACHED HERETO,	Adv. Pro. Nos. listed on Appendix A Attached Hereto
Defendants.	

**ORDER GRANTING IN PART AND DENYING IN PART  
DEFENDANTS' MOTIONS TO DISMISS**

The Defendants listed on Appendix A attached hereto (collectively, “Defendants”) have filed motions to dismiss (the “Motions to Dismiss”) complaints or amended complaints filed against them by Plaintiff Irving H. Picard, as trustee (“Trustee”) for the substantively consolidated liquidation of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* (“SIPA”) and the substantively consolidated estate of Bernard L. Madoff (the “Complaints”).

On January 17, 2014 and March 10, 2014, the Trustee and the Securities Investor Protection Corporation (“SIPC”) filed separate memoranda of law opposing the Motions to

Dismiss (the “Opposition Briefs”). On or before March 17, 2014, certain Defendants filed reply briefs in further support of their respective Motions to Dismiss (the “Reply Briefs”).

On September 17, 2014, a hearing on the Motions to Dismiss was held by the Honorable Stuart M. Bernstein (the “Hearing”). Before and after the Hearing, various parties submitted supplemental authorities and other submissions to the Court. The Court, having reviewed the Motions to Dismiss, the Opposition Briefs, the Reply Briefs, the supplemental authorities and other submissions, and having heard the argument of counsel at the Hearing, granted in part and denied in part the Motions to Dismiss for reasons set forth in its Memorandum Decision Regarding Omnibus Motions to Dismiss (the “Decision”) entered June 2, 2015.

On June 22, 2015, the Supreme Court of the United States denied certiorari of the Trustee’s appeal of *SIPC v. Ida Fishman Revocable Trust*, 14-1128 and *Picard v. Ida Fishman Revocable Trust*, 14-1129 (the “Supreme Court Decision”), and thus section 546(e) of the Bankruptcy Code applies to those adversary proceedings identified on Appendix A attached hereto (the “Adversary Proceedings”).

Accordingly, it is hereby **ORDERED** that:

1. Pursuant to all the Decision and the Supreme Court Decision, counts in the Complaint each Complaint included on Appendix A, other than those seeking to avoid and recover initial and subsequent transfers pursuant to sections 548(a)(1)(A), 550, and 551 of the Bankruptcy Code, are hereby dismissed.

2. In all other respects, the Motions to Dismiss are denied.

2. Defendants shall file their answers to the Complaints on or before July 31, 2015.

3. ~~Defendants~~within 30 days of the entry of this Order. The Adversary Proceedings  
will move forward thereafter on schedules to be established by further order of the Court after  
consultation among the parties-in accordance with the applicable rules of procedure.

4. This Court retains jurisdiction to hear and determine all matters arising from or  
related to this Order.

Dated: New York, New York

⋮

\_\_\_\_\_, 2015

\_\_\_\_\_  
HONORABLE STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE

APPENDIX A			
	Adv. Pro. No.	Defendant(s)	Counsel for Defendant(s)
<u>1.</u>	<u>10-04623</u>	<u>Picard v. Edmond A. Gorek</u>	<u>Day Pitney LLP</u>
<del>1-2.</del>	10-04797	Picard v. Edmond A. Gorek, et al	Day Pitney LLP
<del>2-3.</del>	10-04349	Picard v. Pauline B. Feldman	Bernfeld, DeMatteo & Bernfeld, LLP
<del>3-4.</del>	10-04396	Picard v. Edith A. Schur	Bernfeld, DeMatteo & Bernfeld, LLP
<u>5.</u>	<u>10-04408</u>	<u>Picard v. Cheryl Yankowitz, et al.</u>	<u>Bernfeld, DeMatteo &amp; Bernfeld, LLP</u>
<del>4-6.</del>	10-04560	Picard v. Richard E. Feldman	Bernfeld, DeMatteo & Bernfeld, LLP
<del>5-7.</del>	10-04717	Picard v. William Diamond	Bernfeld, DeMatteo & Bernfeld, LLP
<del>6-8.</del>	10-04772	Picard v. M. Elliot Schnall	Law Offices of Herbert Biegel
<del>7-9.</del>	10-04827	Picard v. Madeline Gins Arakawa, et al.	Carter Ledyard & Millburn LLP
<u>10.</u>	<u>10-04289</u>	<u>Picard v. John Fujiwara, et al</u>	<u>Lax &amp; Neville LLP</u>
<u>11.</u>	<u>10-04301</u>	<u>Picard v. Frieda Bloom</u>	<u>Lax &amp; Neville LLP</u>
<u>12.</u>	<u>10-04304</u>	<u>Picard v. Elinor Solomon</u>	<u>Lax &amp; Neville LLP</u>
<u>13.</u>	<u>10-04307</u>	<u>Picard v. Howard Solomon</u>	<u>Lax &amp; Neville LLP</u>
<u>14.</u>	<u>10-04467</u>	<u>Picard v. David S. Wallenstein</u>	<u>Lax &amp; Neville LLP</u>
<u>15.</u>	<u>10-04481</u>	<u>Picard v. Armand Lindenbaum</u>	<u>Lax &amp; Neville LLP</u>
<del>8-16.</del>	10-04756	Picard v. Stephen B. Kaye, et al.	Lax & Neville LLP
<del>9-17.</del>	10-04881	Picard v. Jillian Wernick Livingston	Lax & Neville LLP
<del>10-18.</del>	<del>10-04481</del> <u>104900</u>	Picard v. <del>Armand Lindenbaum</del> <u>Bonnie J. Kansler</u>	Lax & Neville LLP

<del>11.</del> <u>19.</u>	10- <del>04467</del> <u>04954</u>	Picard v. <del>David S. Wallenstein</del> <u>Ruth Kahn</u>	Lax & Neville LLP
<del>12.</del>	<del>10-04307</del>	<del>Picard v. Howard Solomon</del>	<del>Lax &amp; Neville LLP</del>
<del>13.</del> <u>20.</u>	10-04988	Picard v. Wallenstein / NY Partnership, et al.	Lax & Neville LLP
<del>14.</del>	<del>10-04289</del>	<del>Picard v. John Fujiwara, et al</del>	<del>Lax &amp; Neville LLP</del>
<del>15.</del>	<del>10-04301</del>	<del>Picard v. Frieda Bloom</del>	<del>Lax &amp; Neville LLP</del>
<del>16.</del> <u>21.</u>	10- <del>04304</del> <u>05036</u>	Picard v. Elinor <del>Solomon</del> <u>Friedman Felcher</u>	Lax & Neville LLP
<del>17.</del> <u>22.</u>	10-05169	Picard v. Fairfield Pagma Associates, LP, et al.	Lax & Neville LLP
<del>18.</del> <u>23.</u>	10- <del>04954</del> <u>05246</u>	Picard v. <del>Ruth Kahn</del> <u>Frances J. Le Vine Rev. Trust, et al.</u>	Lax & Neville LLP
<del>19.</del> <u>24.</u>	10- <del>05036</del> <u>04363</u>	Picard v. <del>Elinor Friedman Felcher</del> <u>Schiff Family Holdings Nevada Limited Partnership, et al.</u>	<del>Lax &amp; Neville</del> <u>Wachtel Missry</u> LLP
<del>20.</del> <u>25.</u>	10- <del>05400</del> <u>04470</u>	Picard v. <del>Ted Goldberg</del> <u>Silna Family Inter Vivos Trust, et al.</u>	Wachtel Missry LLP
<del>21.</del> <u>26.</u>	10- <del>04726</del> <u>04472</u>	Picard v. <del>Lori Chemla</del> <u>Daniel N. Silna, et al.</u>	Wachtel Missry LLP
<u>27.</u>	<u>10-04447</u>	<u>Picard v. Franklin Sands</u>	<u>Wachtel Missry LLP</u>
<u>28.</u>	<u>10-04502</u>	<u>Picard v. Steven Schiff</u>	<u>Wachtel Missry LLP</u>
<del>22.</del> <u>29.</u>	10-04579	Picard v. Shetland Fund Limited Partnership, et al.	Wachtel Missry LLP
<u>30.</u>	<u>10-04726</u>	<u>Picard v. Lori Chemla, et al.</u>	<u>Wachtel Missry LLP</u>
<del>23.</del> <u>31.</u>	10-04896	Picard v. Helene Juliette Feffer	Wachtel Missry LLP
<del>24.</del> <u>32.</u>	10-05372	Picard v. O.D.D. Investment LP, et al.	Wachtel Missry LLP
<del>25.</del>	<del>10-04502</del>	<del>Picard v. Steven Schiff</del>	<del>Wachtel Missry LLP</del>
<del>26.</del> <u>33.</u>	10- <del>04363</del> <u>05400</u>	Picard v. <del>Schiff Family Holdings Nevada Limited Partnership</del> <u>Ted Goldberg, et al.</u>	Wachtel Missry LLP
<del>27.</del>	<del>10-04447</del>	<del>Picard v. Franklin Sands</del>	<del>Wachtel Missry LLP</del>
<del>28.</del>	<del>10-04472</del>	<del>Picard v. Daniel N. Silna, et al.</del>	<del>Wachtel Missry LLP</del>
<del>29.</del>	<del>10-04470</del>	<del>Picard v. Silna Family Inter</del>	<del>Wachtel Missry LLP</del>



		<del>Vivos Trust, et al.</del>	
<del>30.</del> <u>34.</u>	10-04796	Picard v. Howard Kaye	McClaughlin & Stern LLP
<del>31.</del> <u>35.</u>	10-04357	Picard v. James Greiff	Dentons LLP
<del>32.</del> <u>36.</u>	10-05058	Picard v. America Israel Cultural Foundation	Dentons LLP
<del>33.</del> <u>37.</u>	10-04799	Picard v. Marvin L. Olshan	Olshan Frome Wolosky LLP
<del>34.</del> <u>38.</u>	10-04774	Picard v. Diane Wilson	Simon & Partners LLP
<del>35.</del> <u>39.</u>	10-04551	Picard v. Douglas D. Johnson	Herrick, Feinstein LLP
<del>36.</del>	<del>10-04662</del>	<del>Lexington Capital Partners</del>	<del>Becker, Glynn, Muffly, Chassin &amp; Hosinski LLP</del>
<del>37.</del> <u>40.</u>	<del>10-04495</del> <u>04294</u>	Picard v. <del>Carl Glick</del> <u>David T. Washburn</u>	Becker, Glynn, Muffly, Chassin & Hosinski LLP
<del>38.</del> <u>41.</u>	10-04435	Picard v. Prospect Capital Partners, et al.	Becker, Glynn, Muffly, Chassin & Hosinski LLP
<del>39.</del> <u>42.</u>	<del>10-04294</del> <u>04495</u>	Picard v. <del>David T. Washburn</del> <u>Carl Glick</u>	Becker, Glynn, Muffly, Chassin & Hosinski LLP
<del>40.</del>	<del>10-04744</del>	<del>Picard v. Irving J. Pinto 1996 Grantor Retained Annuity Trust, et al.</del>	<del>Marvin Ingber / McClay Alton, P.L.L.P</del>
<del>41.</del> <u>43.</u>	10-04538	Picard v. James B. Pinto Rev. Trust, et al	Marvin Ingber / McClay Alton, P.L.L.P
<del>42.</del> <u>44.</u>	10-04588	Picard v. Amy Pinto Lome Rev. Trust, et al	Marvin Ingber / McClay Alton, P.L.L.P
<del>43.</del> <u>45.</u>	<del>10-04744</del>	<del>Picard v. Irving J. Pinto 1996 Grantor Retained Annuity Trust, et al.</del>	<del>Marvin Ingber / McClay Alton, P.L.L.P</del>
<del>44.</del> <u>46.</u>	10-05087	Picard vs. Steven J. Lifton	Meyer, Suozzi, English & Klein, P.C.
<del>45.</del> <u>47.</u>	<del>10-04293</del>	<del>Picard v. Marvin M. Weiner</del>	<del>Fox Rothschild LLP</del>
<del>46.</del> <u>48.</u>	<del>10-04509</del>	<del>Picard v. Susan Helfman</del>	<del>Klestadt Winters Jureller Southard &amp; Stevens, LLP</del>
<del>47.</del> <u>49.</u>	10-04292	Picard v. Robert Roman	Becker & Poliakoff LLP
<del>48.</del> <u>50.</u>	10-04302	Picard v. Joan Roman	Becker & Poliakoff LLP

<del>46.</del> <u>51.</u>	<del>10-04303</del> <u>10-04305</u>	Picard v. <del>Kenneth Robert Cutrone</del> <u>David Shapiro</u> , et al.	Becker & Poliakoff LLP
<del>47.</del> <u>52.</u>	10-04306	Picard v. Angela Tilentnick	Becker & Poliakoff LLP
<del>48.</del> <u>53.</u>	10-04314	Picard v. David Shapiro Nominee #3	Becker & Poliakoff LLP
<del>49.</del> <u>54.</u>	10-04321	Picard v. Herbert Barbanel, et al.	Becker & Poliakoff LLP
<del>50.</del> <u>55.</u>	10-04324	Picard v. Barbara Roth, et al.	Becker & Poliakoff LLP
<del>51.</del> <u>56.</u>	10-04325	Picard v. David Shapiro Nominee #2	Becker & Poliakoff LLP
<del>52.</del> <u>57.</u>	10-04328	Picard v. David Shapiro Nominee	Becker & Poliakoff LLP
<del>53.</del> <u>58.</u>	10-04344	Picard v. Alexander Sirotkin	Becker & Poliakoff LLP
<del>54.</del> <u>59.</u>	10-04367	Picard v. Benjamin T. Heller	Becker & Poliakoff LLP
<u>60.</u>	<u>10-04380</u>	<u>Picard v. Robert Yaffe, et al.</u>	<u>Becker &amp; Poliakoff LLP</u>
<u>61.</u>	<u>10-04381</u>	<u>Picard v. David Abel</u>	<u>Becker &amp; Poliakoff LLP</u>
<del>55.</del> <u>62.</u>	10-04412	Picard v. Judith Rechler	Becker & Poliakoff LLP
<u>63.</u>	<u>10-04425</u>	<u>Picard v. Manuel O. Jaffe</u>	<u>Becker &amp; Poliakoff LLP</u>
<u>64.</u>	<u>10-04428</u>	<u>Picard v. Allen Meisels</u>	<u>Becker &amp; Poliakoff LLP</u>
<del>56.</del> <u>65.</u>	10-04469	Picard v. Carol L. Kamenstein, individually and in her capacity as joint tenant	Becker & Poliakoff LLP
<del>57.</del> <u>66.</u>	10-04489	Picard v. Marlene Krauss	Becker & Poliakoff LLP
<del>58.</del> <u>67.</u>	10-04491	Picard v. Elaine Dine Living Trust dated 5/12/, et al.	Becker & Poliakoff LLP
<u>68.</u>	<u>10-04503</u>	<u>Picard v. Judd Robbins</u>	<u>Becker &amp; Poliakoff LLP</u>
<del>59.</del> <u>69.</u>	10-04541	Picard v. Kenneth W Perlman, et al.	Becker & Poliakoff LLP
<del>60.</del> <u>70.</u>	10-04562	Picard v. Robert F. Ferber	Becker & Poliakoff LLP
<u>71.</u>	<u>10-04599</u>	<u>Picard v. Alvin E. Shulman</u>	<u>Becker &amp; Poliakoff LLP</u>
<del>61.</del> <u>72.</u>	10-04614	Picard v. Robert S. Whitman	Becker & Poliakoff LLP
<del>62.</del> <u>73.</u>	10-04621	Picard v. Donald A. Benjamin	Becker & Poliakoff LLP

<del>63.</del> <u>74.</u>	10-04633	Picard v. Richard S. Poland	Becker & Poliakoff LLP
<u>75.</u>	<u>10-04644</u>	<u>Picard v. Russell L. Dusek</u>	<u>Becker &amp; Poliakoff LLP</u>
<del>64.</del> <u>76.</u>	10-04648	Picard v. Peter D. Kamenstein	Becker & Poliakoff LLP
<del>65.</del> <u>77.</u>	10-04660	Picard v. P.B. Robco Inc.	Becker & Poliakoff LLP
<del>66.</del> <u>78.</u>	<del>10-04682</del> <u>10-04667</u>	Picard v. <del>James M. Garten</del> <u>David Gross, et al.</u>	Becker & Poliakoff LLP
<del>67.</del>	<del>10-04694</del>	<del>Picard v. Clothmasters, Inc.</del>	<del>Becker &amp; Poliakoff LLP</del>
<del>68.</del> <u>79.</u>	10-04709	Picard v. Andrew M. Goodman	Becker & Poliakoff LLP
<u>80.</u>	<u>10-04728</u>	<u>Picard v. Bruno L. Digiulian</u>	<u>Becker &amp; Poliakoff LLP</u>
<del>69.</del> <u>81.</u>	10-04753	Picard v. Carla Ginsburg	Becker & Poliakoff LLP
<del>70.</del> <u>82.</u>	10-04740	Picard v. Robert Hirsch, as an individual, and as joint tenant, et al.	Becker & Poliakoff LLP
<del>71.</del> <u>83.</u>	10-04748	Picard v. Murray Horowitz, et al.	Becker & Poliakoff LLP
<del>72.</del> <u>84.</u>	10-04749	Picard v. Philip F. Palmedo	Becker & Poliakoff LLP
<u>85.</u>	<u>10-04762</u>	<u>Picard v. James M. Goodman</u>	<u>Becker &amp; Poliakoff LLP</u>
<del>73.</del> <u>86.</u>	10-04768	Picard v. Placon2, William R. Cohen, et al.	Becker & Poliakoff LLP
<del>74.</del> <u>87.</u>	10-04806	Picard v. Kenneth M. Kohl, as an individual and as a joint tenant, et al.	Becker & Poliakoff LLP
<u>88.</u>	<u>10-04809</u>	<u>Picard v. Allen Gordon</u>	<u>Becker &amp; Poliakoff LLP</u>
<del>75.</del> <u>89.</u>	10-04818	Picard v. Toby Harwood	Becker & Poliakoff LLP
<del>76.</del> <u>90.</u>	<del>10-04876</del> <u>10-04826</u>	Picard v. <del>Marie S. Rautenberg</del> <u>Boyer Palmer</u>	Becker & Poliakoff LLP
<del>77.</del> <u>91.</u>	10-04889	Picard v. Robert S. Savin	Becker & Poliakoff LLP
<del>78.</del> <u>92.</u>	10-04905	Picard v. Train Klan, a Partnership, et al.	Becker & Poliakoff LLP
<del>79.</del> <u>93.</u>	10-04914	Picard v. Allen Gordon	Becker & Poliakoff LLP
<del>80.</del> <u>94.</u>	10-04916	Picard v. Susan Andelman	Becker & Poliakoff LLP

<u>95.</u>	<u>10-04956</u>	<u>Picard v. D. M. Castelli</u>	<u>Becker &amp; Poliakoff LLP</u>
<del>81.</del> <u>96.</u>	10-05037	Picard v. Barbara L. Savin	Becker & Poliakoff LLP
<del>82.</del> <u>97.</u>	10-05079	Picard v. Estate of James M. Goodman, et al.	Becker & Poliakoff LLP
<del>83.</del> <u>98.</u>	10-05105	Picard v. Robert C. Luker Family Partnership, et al.	Becker & Poliakoff LLP
<del>84.</del>	<del>10-05106</del>	<del>Picard v. Stony Brook Foundation, Inc.</del>	<del>Becker &amp; Poliakoff LLP</del>
<del>85.</del> <u>99.</u>	10-05190	Picard v. The Lazarus-Schy Family Partnership, etc., et al	Becker & Poliakoff LLP
<del>86.</del> <u>100.</u>	<del>10-05443</del> <u>105377</u>	Picard v. <del>Brad Wechsler</del> <u>Richard G. Eaton</u>	Becker & Poliakoff LLP
<u>101.</u>	<u>10-05420</u>	<u>Picard v. Gunther K. Unflat, et al.</u>	<u>Becker &amp; Poliakoff LLP</u>



**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re:	
BERNARD L. MADOFF INVESTMENT SECURITIES LLC,	Adv. Pro. No. 08-1789 (SMB)
Debtor.	SIPA LIQUIDATION  (Substantively Consolidated)
IRVING H. PICARD, Trustee for the Liquidation of Bernard L. Madoff Investment Securities LLC,	
Plaintiff,	
v.	
DEFENDANTS LISTED ON APPENDIX A ATTACHED HERETO,	Adv. Pro. Nos. listed on Appendix A Attached Hereto
Defendants.	

**ORDER GRANTING IN PART AND DENYING IN PART  
DEFENDANTS' MOTIONS TO DISMISS**

The Defendants listed on Appendix A attached hereto (collectively, “Defendants”) have filed motions to dismiss (the “Motions to Dismiss”) complaints or amended complaints filed against them by Plaintiff Irving H. Picard, as trustee (“Trustee”) for the substantively consolidated liquidation of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* (“SIPA”) and the substantively consolidated estate of Bernard L. Madoff (the “Complaints”).

On January 17, 2014 and March 10, 2014, the Trustee and the Securities Investor Protection Corporation (“SIPC”) filed separate memoranda of law opposing the Motions to

Dismiss (the “Opposition Briefs”). On or before March 17, 2014, certain Defendants filed replies in further support of their respective Motions to Dismiss (the “Reply Briefs”).

On September 17, 2014, a hearing on the Motions to Dismiss was held by the Honorable Stuart M. Bernstein (the “Hearing”). Before and after the Hearing, various parties submitted supplemental authorities and other submissions to the Court. The Court, having reviewed the Motions to Dismiss, the Opposition Briefs, the Reply Briefs, the supplemental authorities and other submissions, and having heard the argument of counsel at the Hearing, granted in part and denied in part the Motions to Dismiss for reasons set forth in its Memorandum Decision Regarding Omnibus Motions to Dismiss (the “Decision”) entered June 2, 2015.

On June 22, 2015, the Supreme Court of the United States denied certiorari of the Trustee’s appeal of *SIPC v. Ida Fishman Revocable Trust*, 14-1128 and *Picard v. Ida Fishman Revocable Trust*, 14-1129 (the “Supreme Court Decision”), and thus section 546(e) of the Bankruptcy Code applies to those adversary proceedings identified on Appendix A attached hereto (the “Adversary Proceedings”).

Accordingly, it is hereby **ORDERED** that:

1. Pursuant to the Decision and the Supreme Court Decision, counts in each Complaint included on Appendix A, other than those seeking to avoid and recover initial transfers pursuant to sections 548(a)(1)(A), 550, and 551 of the Bankruptcy Code, are hereby dismissed.

2. As to the count in each Complaint included on Appendix A seeking to recover subsequent transfers from subsequent transferee defendants pursuant to section 550(a) of the Bankruptcy Code, applicable provisions of SIPA including section 78fff-2(c)(3) and New York Debtor and Creditor Law (the “Subsequent Transferee Count”), the Motions to Dismiss are

granted with respect to the Subsequent Transferee Count and such count is hereby dismissed from each Complaint without prejudice to (i) the Trustee's right to seek to amend in accordance with Rule 15(a)(2) of the Federal Rules of Civil Procedure, made applicable hereto by Federal Rule of Bankruptcy Procedure 7015, and/or (ii) the Trustee's rights under Section 550(f) of the Bankruptcy Code.

3. In all other respects, the Motions to Dismiss are denied.

4. Defendants shall file their answers to the Complaints on or before September 18, 2015. The Adversary Proceedings will move forward thereafter on schedules to be established by further order of the Court after consultation among the parties in accordance with the applicable rules of procedure.

5. This Court retains jurisdiction to hear and determine all matters arising from or related to this Order.

Dated: New York, New York  
\_\_\_\_\_, 2015

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HONORABLE STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE



<b>APPENDIX A</b>			
	<b>Adv. Pro. No.</b>	<b>Defendant(s)</b>	<b>Counsel for Defendant(s)</b>
1.	10-04361	Picard v. Harvey L. Werner Revocable Trust, et al.	Bernfeld, DeMatteo & Bernfeld, LLP
2.	10-04394	Picard v. Frederic Z. Konigsberg, et al.	Bernfeld, DeMatteo & Bernfeld, LLP
3.	10-04468	Picard v. Ken-Wen Family Limited P'ship et al.	Bernfeld, DeMatteo & Bernfeld, LLP
4.	10-04478	Estate of Leonard M. Heine Jr., et al.	Bernfeld, DeMatteo & Bernfeld, LLP
5.	10-04561	Picard v. Jeffrey R. Werner 11/1/98 Trust, et al.	Bernfeld, DeMatteo & Bernfeld, LLP
6.	10-05094	Picard v. The Estate of Carolyn Miller, et al	Bernfeld, DeMatteo & Bernfeld, LLP
7.	10-05231	Picard v. Trust under Deed of Suzanne R. May, et al	Bernfeld, DeMatteo & Bernfeld, LLP
8.	10-04573	Picard v. Bruce Leventhal 2001 Irrevocable Trust, et al.	Lax & Neville LLP
9.	10-04616	Picard v. Nicolette Wernick Nominee Partnership, et al.	Lax & Neville LLP
10.	10-04647	Picard v. Abbit Family Trust, et al	Lax & Neville LLP
11.	10-04655	Picard v. Jaffe Family Partnership, et al.	Lax & Neville LLP
12.	10-04960	Picard v. Estate of Elizabeth H. Kahn aka Betty Kahn, et al.	Lax & Neville LLP
13.	10-05048	Picard v. Armand L. Greenhall, et al.	Lax & Neville LLP
14.	10-05160	Picard v. The Lanny Rose Rev. Trust, et al	Lax & Neville LLP
15.	10-04370	Picard v. Sidney Marks Trust 2002, et al.	Wilmer Cutler Pickering Hale and Dorr LLP
16.	10-04698	Picard v. Nancy J. Marks Trust 2002, et al.	Wilmer Cutler Pickering Hale and Dorr LLP
17.	10-04511	Picard v. Weithorn/ Casper Associates For Selected	Becker Glynn, Melamed &

		Holdings, LLC, et al.	Muffly LLP
18.	10-04419	Picard v. Katz Group Limited Partnership, et al.	Becker Meisel LLC
19.	10-04323	Picard v. Weiner Family Limited. Partnership, et al.	Fox Rothschild LLP
20.	10-04606	Picard v. Florence W. Shulman	Becker & Poliakoff LLP
21.	10-04661	Picard v. Krellenstein Family Limited Partnership II of 1999, et al.	Akerman LLP
22.	10-04636	Picard v. Richard J. Helfman Life Insurance Trust	Klestadt Winters Jureller Southard & Stevens, LLP
23.	10-04816	Picard v. Adeline Sherman Revocable Trust as Amended, et al.	Klestadt Winters Jureller Southard & Stevens, LLP
24.	10-04327	Picard v. Gertrude E. Alpern Revocable Trust, et al.	Becker & Poliakoff LLP
25.	10-04397	Picard v. Fern C. Palmer Revocable Trust Dtd 12/31/9, et al.	Becker & Poliakoff LLP
26.	10-04406	Picard v. Triangle Properties #39, et al.	Becker & Poliakoff LLP
27.	10-04438	Picard v. Estate of Seymour Epstein, et al.	Becker & Poliakoff LLP
28.	10-04446	Picard v. Trust Dated 12/6/99 Walter and Eugenie Kissinger, et al.	Becker & Poliakoff LLP
29.	10-04474	Picard v. Roger Rechler Revocable Trust, et al.	Becker & Poliakoff LLP
30.	10-04487	Picard v. Robert Weintraub, et al.	Becker & Poliakoff LLP
31.	10-04539	Picard v. The Gerald and Barbara Keller Family Trust, et al.	Becker & Poliakoff LLP
32.	10-04545	Picard v. Jerome Goodman, Individually, as trustee for The Jerome Goodman Child	Becker & Poliakoff LLP
33.	10-04570	Picard v. Jacob M. Dick Rev Living Trust DTD 4/6/01, et al.	Becker & Poliakoff LLP
34.	10-04610	Picard v. The Whitman Partnership, et al.	Becker & Poliakoff LLP
35.	10-04668	Picard v. Timothy Shawn Teufel and Valerie Ann Teufel Family Trust, et al.	Becker & Poliakoff LLP

36.	10-04680	Picard v. Chalek Associates LLC, et al.	Becker & Poliakoff LLP
37.	10-04750	Picard v. Samdia Family L.P., a Delaware Limited Partnership, et al.	Becker & Poliakoff LLP
38.	10-04752	Picard v. Kuntzman Family LLC, et al.	Becker & Poliakoff LLP
39.	10-04786	Picard v. Edwin Michalove	Becker & Poliakoff LLP
40.	10-04803	Picard v. The Estelle Harwood Family Limited Partnership, et al.	Becker & Poliakoff LLP
41.	10-04823	Picard v. Frank DiFazio, et al.	Becker & Poliakoff LLP
42.	10-04837	Picard v. Leslie Ehrlich f/k/a Leslie Harwood , et al.	Becker & Poliakoff LLP
43.	10-04852	Picard v. Alvin E. Shulman Pourover Trust, et al.	Becker & Poliakoff LLP
44.	10-04859	Picard v. Bert Margolies Trust, et al.	Becker & Poliakoff LLP
45.	10-04867	Picard v. Estate of Steven I. Harnick, et al.	Becker & Poliakoff LLP
46.	10-04884	Picard v. Steven Andelman	Becker & Poliakoff LLP
47.	10-04912	Picard v. Harry Smith Revocable Living Trust, et al.	Becker & Poliakoff LLP
48.	10-04920	Picard v. Glenhaven Limited, et al.	Becker & Poliakoff LLP
49.	10-04961	Picard v. Sylvan Associates LLC f/k/a Sylvan Associates Ltd Partnership, et al.	Becker & Poliakoff LLP
50.	10-04979	Picard v. James M. New Trust dtd 3/19/01, et al.	Becker & Poliakoff LLP
51.	10-04991	Picard v. Guiducci Family Limited Partnership, et al.	Becker & Poliakoff LLP
52.	10-04993	Picard v. Melvin H. and Leona Gale Joint Revocable Living Trust, et al.	Becker & Poliakoff LLP
53.	10-04995	Picard v. Trust U/Art Fourt O/W/O Israel Wilenitz, et al.	Becker & Poliakoff LLP
54.	10-05026	Picard v. Walter Freshman Trust A, a Florida trust, et al.	Becker & Poliakoff LLP
55.	10-05051	Picard v. Bevro Realty Corp. Defined Benefit Pension Plan, et al.	Becker & Poliakoff LLP

56.	10-05104	Picard v. The Gloria Albert Sandler and Maurice Sandler Revocable Living Trust	Becker & Poliakoff LLP
57.	10-05116	Picard v. Leonard J. Oguss Trust, et al.	Becker & Poliakoff LLP
58.	10-05124	Picard v. The Lawrence J. Ryan and Theresa R. Ryan Revocable Living Trust, et al.	Becker & Poliakoff LLP
59.	10-05127	Picard v. Atwood Management Profit Sharing Plan & Trust, etc., et al.	Becker & Poliakoff LLP
60.	10-05128	Picard v. JABA Associates LP, et al.	Becker & Poliakoff LLP
61.	10-05133	Picard v. Boyer H. Palmer, individually, etc, et al.	Becker & Poliakoff LLP
62.	10-05135	Picard v. Reckson Generation, et al.	Becker & Poliakoff LLP
63.	10-05150	Picard v. Plafsky Family LLC Retirement Plan, Robert Plafsky, et al.	Becker & Poliakoff LLP
64.	10-05151	Picard v. Palmer Family Trust, etc., et al.	Becker & Poliakoff LLP
65.	10-05184	Picard v. Laura Ann Smith Revocable Living Trust, et al	Becker & Poliakoff LLP
66.	10-05232	Picard v. Trust for the benefit of Ryan Tavlin, et al.	Becker & Poliakoff LLP
67.	10-05259	Picard v. Stanley I. Lehrer, individually, et al.	Dentons LLP/ Frejka LLP
68.	10-05309	Picard v. William Pressman, Inc., et al.	Becker & Poliakoff LLP
69.	10-05312	Picard v. Doron Tavlin Trust U/A 2/4/91, et al.	Becker & Poliakoff LLP
70.	10-05435	Picard v. Keith Schaffer, et al.	Becker & Poliakoff LLP
71.	10-05438	Picard v. Realty Negotiators Inc. Defined Benefit Pension Plan, et al.	Becker & Poliakoff LLP

**REDLINE VERSION**

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re:	Adv. Pro. No. 08-1789 (SMB)
BERNARD L. MADOFF INVESTMENT SECURITIES LLC,	SIPA LIQUIDATION
Debtor.	(Substantively Consolidated)
IRVING H. PICARD, Trustee for the Liquidation of Bernard L. Madoff Investment Securities LLC,	
Plaintiff,	
v.	
DEFENDANTS LISTED ON APPENDIX A ATTACHED HERETO,	Adv. Pro. Nos. listed on Appendix A Attached Hereto
Defendants.	

**ORDER GRANTING IN PART AND DENYING IN PART  
DEFENDANTS' ~~MOTION~~MOTIONS TO DISMISS**

The Defendants listed on Appendix A attached hereto (collectively, “Defendants”) have filed motions to dismiss (the “Motions to Dismiss”) complaints or amended complaints filed against them by Plaintiff Irving H. Picard, as trustee (“Trustee”) for the substantively consolidated liquidation of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* (“SIPA”) and the substantively consolidated estate of Bernard L. Madoff (the “Complaints”).

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On June 22, 2015, the Supreme Court of the United States denied certiorari of the Trustee’s appeal of *SIPC v. Ida Fishman Revocable Trust*, 14-1128 and *Picard v. Ida Fishman Revocable Trust*, 14-1129 (the “Supreme Court Decision”), and thus section 546(e) of the Bankruptcy Code applies to those adversary proceedings identified on Appendix A attached hereto (the “Adversary Proceedings”).

Accordingly, it is hereby **ORDERED** that:

1. Pursuant to the Decision and the Supreme Court Decision, counts in each Complaint included on Appendix A, other than those seeking to avoid and recover initial transfers pursuant to sections 548(a)(1)(A), 550, and 551 of the Bankruptcy Code, are hereby dismissed.

1.2. As to the count in each ~~complaint~~Complaint included on Appendix A ~~attached hereto~~ seeking to recover subsequent transfers from subsequent transferee defendants pursuant to section 550(a) of the Bankruptcy Code, applicable provisions of SIPA including section 78ff-2(c)(3) and New York Debtor and Creditor Law (the “Subsequent Transferee Count”), the

~~Trustee shall determine on or before August 17, 2015 (the "Consideration Period") whether (i)~~  
~~the Trustee intends to amend the subsequent transferee allegations in a Complaint, or (ii) the~~  
~~Subsequent Transferee Count will be dismissed without prejudice~~Motions to Dismiss are granted  
with respect to the Subsequent Transferee Count and such count is hereby dismissed from each  
Complaint without prejudice to (i) the Trustee's right to seek to amend in accordance with Rule  
15(a)(2) of the Federal Rules of Civil Procedure, made applicable hereto by Federal Rule of  
Bankruptcy Procedure 7015, and/or (ii) the Trustee's rights under Section 550(f) of the  
Bankruptcy Code.

~~2. Should the Trustee seek to amend the Subsequent Transferee Count, he will seek~~  
~~Defendants' written consent to an amendment of the subsequent transferee allegations in a~~  
~~manner consistent with the Decision, which written consent will not be unreasonably withheld.~~  
~~If necessary, the Trustee will seek leave of the Court to amend in accordance with Rule 15(a)(2)~~  
~~of the Federal Rules of Civil Procedure. Should no request for consent to the amendment of a~~  
~~Complaint be provided to the relevant Defendant prior to the expiration of the Consideration~~  
~~Period, the Subsequent Transferee Count in that Complaint will be deemed dismissed without~~  
~~prejudice.~~

3. In all other respects, the Motions to Dismiss are denied.

~~4. All Defendants that are parties to Complaints for which Subsequent Transferee~~  
~~Counts have been deemed dismissed at the conclusion of the Consideration Period~~ shall file their  
answers to the Complaints ~~within 30 days following the expiration of the Consideration Period~~on  
or before September ~~16~~18, 2015. ~~Defendants~~The Adversary Proceedings will move forward  
thereafter on schedules to be established by further order of the Court after consultation among  
the parties.



~~5.4. All actions in which Trustee seeks leave to amend the Complaint will move forward thereafter on a schedule consistent with the applicable Rules of Civil Procedure, including, without limitation, Rule 15(a)(3), in accordance with the applicable rules of procedure.~~

~~6.5.~~ This Court retains jurisdiction to hear and determine all matters arising from or related to this Order.

Dated: New York, New York

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\_\_\_\_\_, 2015

\_\_\_\_\_  
HONORABLE STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE

APPENDIX A			
	Adv. Pro. No.	Defendant(s)	Counsel for Defendant(s)
1.	10- <del>04623</del> 04361	Picard v. <del>Edmond A. Gorek</del> Harvey L. Werner Revocable Trust, et al.	<del>Day Pitney LLP</del> Bernfeld, DeMatteo & Bernfeld, LLP
2.	10-04394	Picard v. Frederic Z. Konigsberg, et al.	Bernfeld, DeMatteo & Bernfeld, LLP
<del>3.</del>	<del>10-04408</del>	<del>Picard v. Cheryl Yankowitz, et al.</del>	<del>Bernfeld, DeMatteo &amp; Bernfeld, LLP</del>
<del>4.</del> 3.	10-04468	Picard v. Ken-Wen Family Limited P'ship et al.	Bernfeld, DeMatteo & Bernfeld, LLP
<del>4.</del>	<del>10-04478</del>	<del>Estate of Leonard M. Heine Jr., et al.</del>	<del>Bernfeld, DeMatteo &amp; Bernfeld, LLP</del>
5.	10-04561	Picard v. Jeffrey R. Werner 11/1/98 Trust, et al.	Bernfeld, DeMatteo & Bernfeld, LLP
6.	10-05094	Picard v. The Estate of Carolyn Miller, et al	Bernfeld, DeMatteo & Bernfeld, LLP
7.	10-05231	Picard v. Trust under Deed of Suzanne R. May, et al	Bernfeld, DeMatteo & Bernfeld, LLP
8.	10- <del>04361</del> 04573	Picard v. <del>Harvey L. Werner</del> <del>Revocable</del> Bruce Leventhal 2001 Irrevocable Trust, et al.	<del>Bernfeld, DeMatteo &amp; Bernfeld, LLP</del> Lax & Neville LLP
<del>9.</del>	<del>10-04616</del>	<del>Picard v. Nicolette Wernick Nominee Partnership, et al.</del>	<del>Lax &amp; Neville LLP</del>
<del>10.</del>	<del>10-04647</del>	<del>Picard v. Abbit Family Trust, et al</del>	<del>Lax &amp; Neville LLP</del>
<del>9.</del> 11.	10-04655	Picard v. Jaffe Family Partnership, et al.	Lax & Neville LLP
<del>10.</del>	<del>10-04900</del>	<del>Picard v. Bonnie J. Kansler</del>	<del>Lax &amp; Neville LLP</del>
<del>11.</del>	<del>10-04647</del>	<del>Picard v. Abbit Family Trust, et al</del>	<del>Lax &amp; Neville LLP</del>
12.	10- <del>05246</del> 04960	Picard v. <del>Frances J. Le Vine</del> <del>Rev. Trust</del> Estate of Elizabeth H. Kahn aka Betty Kahn, et al.	Lax & Neville LLP
13.	10-05048	Picard v. Armand L. Greenhall, et al.	Lax & Neville LLP

14.	10-05160	Picard v. The Lanny Rose Rev. Trust, et al	Lax & Neville LLP
<del>15.</del>	<del>10-04573</del>	<del>Picard v. Bruce Leventhal 2001 Irrevocable Trust, et al.</del>	<del>Lax &amp; Neville LLP</del>
<del>16.</del>	<del>10-04616</del>	<del>Picard v. Nicolette Wernick Nominee Partnership, et al.</del>	<del>Lax &amp; Neville LLP</del>
<del>17.</del>	<del>10-04960</del>	<del>Picard v. Estate of Elizabeth H. Kahn aka Betty Kahn, et al.</del>	<del>Lax &amp; Neville LLP</del>
<del>18.</del> <u>15.</u>	10-04370	Picard v. Sidney Marks Trust 2002, et al.	Wilmer Cutler Pickering Hale and Dorr LLP
<del>19.</del> <u>16.</u>	10-04698	Picard v. Nancy J. Marks Trust 2002, et al.	Wilmer Cutler Pickering Hale and Dorr LLP
<del>20.</del> <u>17.</u>	10-04511	Picard v. Weithorn/ Casper Associates For Selected Holdings, LLC, et al.	Becker Glynn, Melamed & Muffly LLP
<del>21.</del> <u>18.</u>	10-04419	Picard v. Katz Group Limited Partnership, et al.	Becker Meisel LLC
<del>22.</del> <u>19.</u>	10-04323	Picard v. Weiner Family Limited. Partnership, et al.	Fox Rothschild LLP
<del>23.</del> <u>20.</u>	10- <del>04293</del> <u>04606</u>	Picard v. <del>Marvin M. Weiner</del> <u>Florence W. Shulman</u>	<del>Fox Rothschild</del> <u>Becker &amp; Poliakoff</u> LLP
<del>24.</del>	<del>10-05371</del>	<del>Picard v. L.H. Rich Companies, et al.</del>	<del>Garvey Schubert Baker</del>
<del>25.</del>	<del>10-04478</del>	<del>Estate of Leonard M. Heine Jr., et al.</del>	<del>Bernfeld, DeMatteo &amp; Bernfeld, LLP</del>
<del>26.</del> <u>21.</u>	10-04661	Picard v. Krellenstein Family Limited Partnership II of 1999, et al.	Akerman LLP
<u>22.</u>	<u>10-04636</u>	<u>Picard v. Richard J. Helfman Life Insurance Trust</u>	<u>Klestadt Winters Jureller Southard &amp; Stevens, LLP</u>
<del>27.</del> <u>23.</u>	10-04816	Picard v. Adeline Sherman Revocable Trust as Amended, et al.	Klestadt Winters Jureller Southard & Stevens, LLP
<del>28.</del>	<del>10-04509</del>	<del>Picard v. Susan Helfman</del>	<del>Klestadt Winters Jureller Southard &amp; Stevens, LLP</del>
<del>29.</del>	<del>10-04636</del>	<del>Picard v. Richard J. Helfman Life Insurance Trust</del>	<del>Klestadt Winters Jureller Southard &amp; Stevens, LLP</del>
<del>30.</del>	<del>10-04816</del>	<del>Picard v. Adeline Sherman Revocable Trust</del>	<del>Klestadt Winters Jureller Southard &amp; Stevens, LLP</del>

<del>31.</del>	<del>10-04305</del>	<del>Picard v. David Shapiro, et al.</del>	<del>Becker &amp; Poliakoff LLP</del>
<del>32.24.</del>	10-04327	Picard v. Gertrude E. Alpern Revocable Trust, et al.	Becker & Poliakoff LLP
<del>33.</del>	<del>10-04380</del>	<del>Picard v. Robert Yaffe, et al.</del>	<del>Becker &amp; Poliakoff LLP</del>
<del>34.</del>	<del>10-04381</del>	<del>Picard v. David Abel</del>	<del>Becker &amp; Poliakoff LLP</del>
<del>35.</del>	<del>10-04391</del>	<del>Picard v. Yesod Fund, a trust, et al.</del>	<del>Becker &amp; Poliakoff LLP</del>
<del>36.25.</del>	10-04397	Picard v. Fern C. Palmer Revocable Trust Dtd 12/31/9, et al.	Becker & Poliakoff LLP
<del>37.26.</del>	10-04406	Picard v. Triangle Properties #39, et al.	Becker & Poliakoff LLP
<del>38.</del>	<del>10-04425</del>	<del>Picard v. Manuel O. Jaffe</del>	<del>Becker &amp; Poliakoff LLP</del>
<del>39.</del>	<del>10-04428</del>	<del>Picard v. Allen Meisels</del>	<del>Becker &amp; Poliakoff LLP</del>
<del>40.</del>	<del>10-04434</del>	<del>Picard v. Trust U/W/O Morris Weintraub FBO Audrey Weintraub, et al.</del>	<del>Becker &amp; Poliakoff LLP</del>
<del>41.27.</del>	10-04438	Picard v. Estate of Seymour Epstein, et al.	Becker & Poliakoff LLP
<del>42.28.</del>	10-04446	Picard v. Trust Dated 12/6/99 Walter and Eugenie Kissinger, et al.	Becker & Poliakoff LLP
<del>43.29.</del>	10-04474	Picard v. Roger Rechler Revocable Trust, et al.	Becker & Poliakoff LLP
<del>44.30.</del>	10-04487	Picard v. Robert Weintraub, et al.	Becker & Poliakoff LLP
<del>45.</del>	<del>10-04503</del>	<del>Picard v. Judd Robbins</del>	<del>Becker &amp; Poliakoff LLP</del>
<del>46.31.</del>	10-04539	Picard v. The Gerald and Barbara Keller Family Trust, et al.	Becker & Poliakoff LLP
<del>47.32.</del>	10-04545	Picard v. Jerome Goodman, Individually, as trustee for The Jerome Goodman Child	Becker & Poliakoff LLP
<del>48.33.</del>	10-04570	Picard v. Jacob M. Dick Rev Living Trust DTD 4/6/01, et al.	Becker & Poliakoff LLP
<del>49.</del>	<del>10-04599</del>	<del>Picard v. Alvin E. Shulman</del>	<del>Becker &amp; Poliakoff LLP</del>
<del>50.</del>	<del>10-04606</del>	<del>Picard v. Florence W. Shulman</del>	<del>Becker &amp; Poliakoff LLP</del>

<del>51.34.</del>	10-04610	Picard v. The Whitman Partnership, et al.	Becker & Poliakoff LLP
<del>52.</del>	<del>10-04644</del>	<del>Picard v. Russell L. Dusek</del>	<del>Becker &amp; Poliakoff LLP</del>
<del>53.</del>	<del>10-04667</del>	<del>Picard v. David Gross, et al.</del>	<del>Becker &amp; Poliakoff LLP</del>
<del>54.35.</del>	10-04668	Picard v. Timothy Shawn Teufel and Valerie Ann Teufel Family Trust, et al.	Becker & Poliakoff LLP
<del>55.36.</del>	10-04680	Picard v. Chalek Associates LLC, et al.	Becker & Poliakoff LLP
<del>56.</del>	<del>10-04718</del>	<del>Picard v. The Jordan H. Kart Revocable Trust, et al.</del>	<del>Becker &amp; Poliakoff LLP</del>
<del>57.</del>	<del>10-04728</del>	<del>Picard v. Bruno L. Digiulian</del>	<del>Becker &amp; Poliakoff LLP</del>
<del>58.</del>	<del>10-04733</del>	<del>Picard v. J.Z. Personal Trust, et al.</del>	<del>Becker &amp; Poliakoff LLP</del>
<del>59.37.</del>	10-04750	Picard v. Samdia Family L.P., a Delaware Limited Partnership, et al.	Becker & Poliakoff LLP
<del>60.38.</del>	10-04752	Picard v. Kuntzman Family LLC, et al.	Becker & Poliakoff LLP
<del>61.</del>	<del>10-04762</del>	<del>Picard v. James M. Goodman</del>	<del>Becker &amp; Poliakoff LLP</del>
<del>62.</del>	<del>10-04781</del>	<del>Picard v. Estate of Irene Schwartz, et al.</del>	<del>Becker &amp; Poliakoff LLP</del>
<del>63.39.</del>	10-04786	Picard v. Edwin Michalove	Becker & Poliakoff LLP
<del>64.40.</del>	10-04803	Picard v. The Estelle Harwood Family Limited Partnership, et al.	Becker & Poliakoff LLP
<del>65.</del>	<del>10-04809</del>	<del>Picard v. Allen Gordon</del>	<del>Becker &amp; Poliakoff LLP</del>
<del>66.41.</del>	10-04823	Picard v. Frank DiFazio, et al.	Becker & Poliakoff LLP
<del>67.</del>	<del>10-04826</del>	<del>Picard v. Boyer Palmer</del>	<del>Becker &amp; Poliakoff LLP</del>
<del>68.42.</del>	10-04837	Picard v. Leslie Ehrlich f/k/a Leslie Harwood , et al.	Becker & Poliakoff LLP
<del>69.43.</del>	10-04852	Picard v. Alvin E. Shulman Pourover Trust, et al.	Becker & Poliakoff LLP
<del>70.44.</del>	10-04859	Picard v. Bert Margolies Trust, et al.	Becker & Poliakoff LLP
<del>71.45.</del>	10-04867	Picard v. Estate of Steven I. Harnick, et al.	Becker & Poliakoff LLP

<del>72.46.</del>	10-04884	Picard v. Steven Andelman	Becker & Poliakoff LLP
<del>73.47.</del>	10-04912	Picard v. Harry Smith Revocable Living Trust, et al.	Becker & Poliakoff LLP
<del>74.48.</del>	10-04920	Picard v. Glenhaven Limited, et al.	Becker & Poliakoff LLP
<del>75.</del>	<del>10-04956</del>	<del>Picard v. D. M. Castelli</del>	<del>Becker &amp; Poliakoff LLP</del>
<del>76.49.</del>	10-04961	Picard v. Sylvan Associates LLC f/k/a Sylvan Associates Ltd Partnership, et al.	Becker & Poliakoff LLP
<del>77.50.</del>	10-04979	Picard v. James M. New Trust dtd 3/19/01, et al.	Becker & Poliakoff LLP
<del>78.51.</del>	10-04991	Picard v. Guiducci Family Limited Partnership, et al.	Becker & Poliakoff LLP
<del>79.52.</del>	10-04993	Picard v. Melvin H. and Leona Gale Joint Revocable Living Trust, et al.	Becker & Poliakoff LLP
<del>80.53.</del>	10-04995	Picard v. Trust U/Art Fourt O/W/O Israel Wilenitz, et al.	Becker & Poliakoff LLP
<del>81.54.</del>	10-05026	Picard v. Walter Freshman Trust A, a Florida trust, et al.	Becker & Poliakoff LLP
<del>82.</del>	<del>10-05032</del>	<del>Picard v. Marvin Kirsten, et al.</del>	<del>Becker &amp; Poliakoff LLP</del>
<del>83.</del>	<del>10-05041</del>	<del>Picard v. Marilyn Turk Revocable Trust, et al.</del>	<del>Becker &amp; Poliakoff LLP</del>
<del>84.55.</del>	10-05051	Picard v. Bevro Realty Corp. Defined Benefit Pension Plan, et al.	Becker & Poliakoff LLP
<del>85.</del>	<del>10-05064</del>	<del>Picard v. The Celeste &amp; Adam Bartos Charitable Trust, et al.</del>	<del>Becker &amp; Poliakoff LLP</del>
<del>86.</del>	<del>10-05102</del>	<del>Picard v. Robert A. Benjamin, et al.</del>	<del>Becker &amp; Poliakoff LLP</del>
<del>87.56.</del>	10-05104	Picard v. The Gloria Albert Sandler and Maurice Sandler Revocable Living Trust	Becker & Poliakoff LLP
<del>88.57.</del>	10-05116	Picard v. Leonard J. Oguss Trust, et al.	Becker & Poliakoff LLP
<del>89.58.</del>	10-05124	Picard v. The Lawrence J. Ryan and Theresa R. Ryan Revocable Living Trust, et al.	Becker & Poliakoff LLP
<del>90.59.</del>	10-05127	Picard v. Atwood Management Profit Sharing Plan & Trust, etc., et al.	Becker & Poliakoff LLP
<del>91.60.</del>	10-05128	Picard v. JABA Associates LP, et al.	Becker & Poliakoff LLP

<del>92.</del> <u>61.</u>	10-05133	Picard v. Boyer H. Palmer, individually, etc, et al.	Becker & Poliakoff LLP
<del>93.</del> <u>62.</u>	10-05135	Picard v. Reckson Generation, et al.	Becker & Poliakoff LLP
<del>94.</del>	<del>10-05148</del>	<del>Picard v. Bert Brodsky Associates, Inc. Pension Plan, et al.</del>	<del>Becker &amp; Poliakoff LLP</del>
<del>95.</del> <u>63.</u>	10-05150	Picard v. Plafsky Family LLC Retirement Plan, Robert Plafsky, et al.	Becker & Poliakoff LLP
<del>96.</del> <u>64.</u>	10-05151	Picard v. Palmer Family Trust, etc., et al.	Becker & Poliakoff LLP
<del>97.</del>	<del>10-05154</del>	<del>Picard v. Blue Bell Lumber and Moulding Company, Inc. Profit Sharing Plan</del>	<del>Becker &amp; Poliakoff LLP</del>
<del>98.</del> <u>65.</u>	10-05184	Picard v. Laura Ann Smith Revocable Living Trust, et al	Becker & Poliakoff LLP
<del>99.</del> <u>66.</u>	10-05232	Picard v. Trust for the benefit of Ryan Tavlin, et al.	Becker & Poliakoff LLP
<del>100.</del> <u>67.</u>	10-05259	Picard v. Stanley I. Lehrer, individually, et al.	<del>Becker &amp; Poliakoff</del> <u>Dentons LLP/ Frejka</u> LLP
<del>101.</del> <u>68.</u>	10-05309	Picard v. William Pressman, Inc., et al.	Becker & Poliakoff LLP
<del>102.</del> <u>69.</u>	10-05312	Picard v. Doron Tavlin Trust U/A 2/4/91, et al.	Becker & Poliakoff LLP
<del>103.</del> —	<del>10-05377</del>	<del>Picard v. Richard G. Eaton</del>	<del>Becker &amp; Poliakoff LLP</del>
<del>104.</del> —	<del>10-05420</del>	<del>Picard v. Gunther K. Unflat, et al.</del>	<del>Becker &amp; Poliakoff LLP</del>
<del>105.</del> <u>70.</u>	10-05435	Picard v. Keith Schaffer, et al.	Becker & Poliakoff LLP
<del>106.</del> <u>71.</u>	10-05438	Picard v. Realty Negotiators Inc. Defined Benefit Pension Plan, et al.	Becker & Poliakoff LLP